

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

VIDEO GAMING TECHNOLOGIES, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 17-CV-00454-GKF-JFJ
)	FILED UNDER SEAL
CASTLE HILL STUDIOS LLC)	
(d/b/a CASTLE HILL GAMING);)	
CASTLE HILL HOLDING LLC)	
(d/b/a CASTLE HILL GAMING); and)	
IRONWORKS DEVELOPMENT, LLC)	
(d/b/a CASTLE HILL GAMING),)	
)	
Defendants.)	

ORDER

This matter comes before the court on the Motion *in Limine* Regarding Castle Hill Gaming Defenses [Doc. 180] of plaintiff Video Gaming Technologies, Inc.¹ VGT seeks an order precluding evidence or testimony “in connection with [Castle Hill’s] affirmative defenses, including unclean hands and illegality, based on their Regulatory, Fast Follow, and PAR Sheet Theories.” [Doc. 181, p. 1].

The court has granted summary judgment in VGT’s favor with respect to Castle Hill’s illegality affirmative defense, as well as its regulatory theory of the unclean hands affirmative defense. *See* [Doc. 344]. Thus, evidence related to Castle Hill’s regulatory theory is irrelevant and VGT’s motion *in limine* to exclude evidence related to that theory is granted.

¹ VGT also filed a sealed, unredacted version of the motion as [Doc. 181]. The references contained in this order are to the unredacted version. Accordingly, the court files this order under seal, attorneys’ eyes only. As set forth below, the court will enter an unsealed order after consideration of the parties’ proposed redactions, if any.

As for Castle Hill's other theories of its unclean hands affirmative defense, the court has denied VGT's motion for partial summary judgment, but only with respect to VGT's trade dress claims. [Doc. 344]. Further, for the reasons set forth in the July 22, 2019 order on plaintiff's motion for partial summary judgment, Castle Hill is not precluded from offering the evidence for failure to disclose pursuant to FED. R. CIV. P. 26 or FED. R. CIV. P. 37. Thus, for the reasons more fully set forth in the court's July 22, 2019 order, VGT's motion *in limine* is denied as to evidence in connection with Castle Hill's unclean hands affirmative defense related to VGT's trade dress claims.

WHEREFORE, Plaintiff's Motion *in Limine* to Regarding Castle Hill Gaming Defenses [Doc. 180] is granted in part and denied in part. Castle Hill may offer evidence in connection with its affirmative defenses consistent with this court's July 22, 2019 order on plaintiff's motion for partial summary judgment.

DATED this 22nd day of July, 2019.


GREGORY K. FRIZZELL
UNITED STATES DISTRICT JUDGE